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10  
11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13

14 **LA MERLE RONNIE JOHNSON,**

15 Petitioner,

16 v.

17 **ROSANNE CAMPBELL, Warden,**

18 Respondent.

C 07-2921 JSW

**RESPONDENT'S WITHDRAWAL OF  
MOTION TO DISMISS AND  
REQUEST FOR EXTENSION OF  
TIME TO FILE ANSWER**

Judge: The Honorable Jeffrey S. White

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20 Respondent moved to dismiss this habeas petition brought by pro per inmate LeMerle  
21 Johnson on the ground that it appeared Johnson had not exhausted his federal claims challenging  
22 the Board's 2006 decision denying him parole by presenting them to the California Supreme  
23 Court before seeking federal habeas relief. Respondent's counsel had been unable to find and  
24 obtain copies of the relevant state court petitions and orders because Johnson had not provided  
25 any evidence of exhaustion in his Petition. However, after receiving Johnson's reply to  
26 Respondent's Motion to Dismiss and based on the information therein, Respondent's counsel  
27 was able to obtain a copy of Johnson's California Supreme Court Petition, reflecting that  
28 Johnson had raised his federal claims in that petition and thus, indicating that he had exhausted

1 his state court remedies. Accordingly, Respondent withdraws its motion to dismiss filed  
2 December 14, 2007.

3 Based on this withdrawal, Respondent requests that the Court grant an extension of time to,  
4 and including, April 4, 2008, to file an answer. To adequately respond to Johnson's Petition,  
5 Respondent's counsel has twice requested — but not received — Johnson's San Mateo County  
6 Superior Court and First Appellate District Court petitions, and the court's orders denying them.  
7 Both the petitions and orders are necessary for Respondent to determine the validity of Johnson's  
8 claims.

9 In summary, Respondent withdraws its motion to dismiss filed December 14, 2007, and  
10 requests an extension of time to and including April 4, 2008 to file an Answer.

11 Dated: February 11, 2008

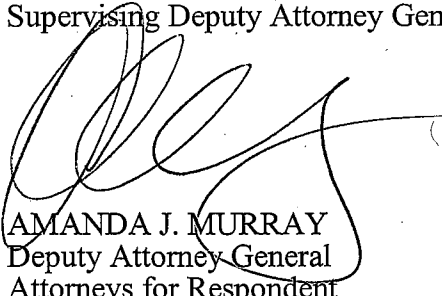
12 Respectfully submitted,

13 EDMUND G. BROWN JR.  
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14 DANE R. GILLETTE  
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**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **Johnson v. Campbell**

No.: **C 07-2921 JSW**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On **February 11, 2008**, I served the attached

**RESPONDENT'S WITHDRAWAL OF MOTION TO DISMISS  
AND REQUEST FOR EXTENSION OF TIME TO FILE ANSWER**


**[PROPOSED] ORDER**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

**La Merle R. Johnson, J-92682**  
**Mule Creek State Prison**  
**P.O. Box 409060**  
**Ione, CA 95640-9060**  
In Pro Per

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **February 11, 2008**, at San Francisco, California.

\_\_\_\_\_  
M.M. Argarin  
Declarant

\_\_\_\_\_  
  
Signature